

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TONI L. BUCKLER,	:	CIVIL ACTION NO. 1:07-CV-1414
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
MICHAEL J. ASTRUE,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 17th day of June 2008, upon consideration of the report of the magistrate judge (Doc. 10), to which no objections were filed (see Doc. 11), recommending that the case be remanded to the Commissioner of Social Security, and, following an independent review of the record, it appearing that the administrative law judge (“ALJ”) incorrectly evaluated plaintiff’s onset date because she failed to inquire about information from the medical expert and did not address the disability function report completed by plaintiff’s husband regarding plaintiff’s capabilities and daily activities, (see Doc. 10 at 8, 10), that the ALJ should continue to evaluate plaintiff’s credibility in light of any new evidence presented on remand, (see id. at 12), that the ALJ should reevaluate the fifth step of the sequential evaluation process to determine whether plaintiff is capable of performing other work in the economy, (see id. at 17), that the ALJ should not have included a lack of treatment history as a reason to deny benefits without properly according weight to plaintiff’s reasons for not seeking treatment, see Beasich v. Comm’r of Soc. Sec., 66 F. App’x

419, 429 n.5 (3d Cir. 2003) stating that “the adjudicator must not draw any inferences . . . without first considering any explanations that the individual may provide . . . that may explain infrequent or irregular medical visits or failure to seek medical treatment”), and that the ALJ failed to provide a reason for finding that plaintiff’s condition did not meet or equal the criteria in a listing required to be considered disabled *per se*, (see Doc. 10 at 15), it is hereby ORDERED that:

1. The report and recommendation of the magistrate judge (Doc. 10) is ADOPTED.
2. The above-captioned action is REMANDED to the Commissioner of Social Security for further proceedings consistent with this order and the report and recommendation of the magistrate judge (Doc. 10).
3. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge